

**REMARKS/ARGUMENTS**

The applicant has filed a Request for Continued Examination. Please charge our deposit account number 02-2095 in the amount of \$810.00 for the RCE fee. Please also charge any additional fees that may be required, or credit any overpayment, to our deposit account.

The present letter is filed in response to the Office Action of August 11, 2009. Accordingly, this response is timely filed.

The Office Action dated August 11, 2009 has been carefully considered. It is believed that the claims submitted herewith and the following comments represent a complete response to the Examiner's comments and place the present application in condition for allowance. Reconsideration is respectfully requested.

**Claim Status**

Claim 31 has been amended to specify that the ANFO explosive consists of inorganic oxidizer particles coated with the liquid mixture and one or more conventional additives and excludes emulsion explosives. Support for this amendment is found, for example, in paragraph 66 of the description as filed, where various conventional additives that are commonly used in the art are described. In particular, the application discloses additives which improve sensitivity, density, flowability, stability and energy. Examples of energy increasers include aluminum, magnesium, aluminum-magnesium alloys, ferrophosphorus, ferrosilicon, lead and its salts and trinitrotoluene. Examples of sensitizers include glass microspheres and other standard air entraining agents. Other additives include water blocking agents such as guar gum. Moreover, support to exclude emulsion explosives is found in paragraph 69 of the application as filed, which clearly states that the ANFO explosive compositions may be used by themselves, and that the addition of emulsion-type explosives is clearly an *optional* embodiment.

Claim Rejections 35 USC §102

The Examiner has maintained an objection to claims 31-33, 35, 36, 38, 43, 44, 48, 49, 51, 53 and 56 under 35 U.S.C. 102(b) as being anticipated by Briones et al. (GB2120228). For the reasons that follow, the Applicant respectfully traverses the Examiner's rejection.

**Briones does not teach ANFO explosives that consist only of inorganic oxidizer particles coated with the liquid mixture**

By the present amendment, claim 31 has been amended to specify that the ANFO explosive consists of inorganic oxidizer particles coated with the liquid mixture and one or more conventional additives and excludes emulsion explosives.

The Applicant respectfully submits that Briones is directed to emulsion-type explosives in which water constitutes a significant component of the explosive composition. In support of this contention, the Applicant directs the Examiner's attention to page 1, line 1 of Briones, where the inventors state:

This invention refers to a new type of emulsion explosives compositions and to the method for industrial production. [emphasis added]

At page 1, line 31 of Briones, the inventors state:

The oxidizing phase is composed of a solution of salts, generally in an aqueous medium. [emphasis added]

Further, at page 1, line 42 of Briones, the inventors state:

The water content of the oxidizing aqueous phases ranges from 10 to 20% and preferably around 15%.

Finally, in Table I on page 4 of Briones, each of the exemplified explosive compositions contain at least 10% water. Accordingly, Briones clearly teaches emulsion-type

explosives, in which water constitutes a significant portion of the explosive composition, which is essential for an emulsion type explosive.

The Applicant respectfully submits that by amending claim 31 to specify that the ANFO explosive consists of inorganic oxidizer particles coated with the liquid mixture and one or more conventional additives and excludes emulsion explosives, Briones does not anticipate the present application, as the ANFO composition of the present application now specifically excludes emulsion-type explosives as disclosed in Briones.

The Applicant directs the Examiner's attention to Section 2131 of MPEP, where it states:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.  
[emphasis added]

Accordingly, the Applicant respectfully submits that for Briones to anticipate claim 31, each and every element of the claim must be expressly or inherently described in the disclosure of Briones. As described above, the Applicant respectfully submits that Briones does not disclose flowable ANFO consisting only of inorganic oxidizer particles coated with the liquid mixture and one or more conventional additives and excludes emulsion explosive compositions. The Applicant submits that Briones discloses water-based emulsion-type explosives. Accordingly, the Applicant submits that Briones does not anticipate presently amended claim 31.

The Examiner also stated in the office action that although the Applicant argued that the claimed invention is a dry composition, claim 31 recites that the composition is "flowable". In addition, the Examiner stated that the Applicant also argued that the instant invention is flowable, but persists in arguing that it is solid (see pages 3 and 4 of the office action). The Applicant respectfully traverses the Examiner's objection for the following reasons.

First, claim 31 has been amended to specify that the ANFO explosive composition consists of inorganic oxidizer particles coated with the liquid mixture and one or more conventional additives and excludes emulsion explosives. Accordingly, the ANFO compositions as required by presently amended claim 31 do not contain water. Secondly, the Applicant respectfully submits that there are numerous examples of flowable solids, such as salt, sugar, sand, or any other granular solid. Accordingly, the Applicant respectfully submits that the composition of claim 31 is not anticipated by Briones. Claims 32, 33, 35, 36, 38, 43, 44, 48, 49, 51, 53, and 56 are dependent on 31, and thus the foregoing arguments apply equally thereto. As such, Applicant respectfully submits that claims 31-33 35, 36, 38, 43, 44, 48, 49, 51, 53, and 56 are in condition for allowance.

In light of the above, the Applicant requests that the Examiner's objection to claims 31-33, 35, 36, 38, 43, 44, 48, 49, 51, 53 and 56 under 35 U.S.C. 102(b) be withdrawn.

#### Claim Rejections 35 USC §103

In the Office Action, the Examiner stated that claims 39-42, 54, and 55 are rejected under 35 USC 103(a) as being unpatentable over Briones in view of Richard. Claims 39-42, 54, and 55 are dependent on claim 31, and thus the arguments applied hereinabove with respect to claim 31 apply equally thereto. Accordingly, Applicant respectfully submits that claims 39-42, 54, and 55 are in condition for allowance.

#### Summary

The Commissioner is hereby authorized to charge any fee (including any claim fee) which may be required to our Deposit Account No. 02-2095.

In view of the forgoing arguments, Applicant respectfully submits that the claims of the present application are in condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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By \_\_\_\_\_

  
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